The Southern PATRIOT

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Guilt Is More Than Skin Deep

Where does the real crime lie when two boys, aged 15 and 16, are sentenced to life in prison for stabbing a woman to death?

Two Negro youths in Charlotte, N. C., admitted the murder last month, telling how they sought to steal a purse.

Investigation revealed that one of the pair had often been in trouble and was judged mentally deficient by juvenile court medical workers.

But, said the Charlotte superintendent of public welfare, it has been over three years since his department has been able to get a feeble-minded Negro juvenile placed in a state institution.

Where does the crime lie?

In Tuscaloosa, Ala., last month Fletcher Mills, 25, former sharecropper, pleaded guilty to charges of atrocious assault with intent to kill and received a 10-year prison sentence.

Mills, eight years before, had fled after cutting his landlord in the arm with a penknife during a dispute over herding some cattle. He said the landlord had started beating him with a pickhandle. Later an armed mob gathered in front of his house.

In Philadelphia he was arrested by the FBI for interstate flight. A lawyer there, David Levinson, became interested in the Negro's case. Three times he carried the fight against extradition to the Supreme Court. After the final plea was lost, Hall was returned to Alabama.

Last month Levinson tried to get an attorney in Tuscaloosa to defend Mills. "I had three lawyers and they all pulled out, realizing, after I was back in Philadelphia, that they had too much work and couldn't handle the case."

A public defender, appointed only a few hours before trial time, handled the case. His request for additional time was denied. He advised Mills to plead guilty "because he didn't have a Chinaman's chance."

A Chinaman probably would have had more chance.

In Selma, Ala., where the blood-red Albert Hotel with its baroque pillars and stained glass windows squats like a symbol of the Old Regime; where the public school board is a self-perpetuating private club; where, at midnight, Negro prisoners in black-and-white striped

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Williams Vs. Talmadge: Which Way South?

On the night of October 12 Aubrey Williams, president of the SCEF, and Governor Herman Talmadge of Georgia debated the issue of segregation in the public schools over the DuMont Television Network.

The two speakers ably presented the opposing points of view that are now before the U. S. Supreme Court.

Williams cited the injustice segregated schools work upon Negro children and parents and upheld their right to get recourse in the courts. He pointed out the progress in racial relations in the South that has resulted from recent court rulings. He asserted that the problem is national, not regional.

Talmadge did not deny that there "have been some discriminations in the past." But he insisted that neither segregation nor public schools are under the jurisdiction of the U.S. Constitution. Should the court outlaw segregation in the schools, he claimed the right of the states to abolish the school system.

Erroneously, he kept repeating that the Supreme Court had, in the past, decided that segregated schools were legal. But the "separate but equal" formula springs from a case involving transportation. Segregated education has never before been examined by the high bench.

We are reprinting virtually the entire script of the telecast, both for the significance of the statements contained in it and as a stimulus to similar forums elsewhere.

There is little public discussion of the problem, but well-informed citizens are essential if a democratic solution is to be achieved. Debates should be arranged in every major Southern city, with local officials, educators and civic leaders participating. The SCEF will be glad to offer its help to any groups who may wish to sponsor such projects.

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THE BIG ISSUE

"Segregation in Public Schools"

Announcer: Here to discuss the Big Issue—Governor Herman Talmadge of Georgia, Ned Brooks as your moderator, and Mr. Aubrey Williams, former National Youth Administrator, and now publisher of **Southern Farm and Home**, and president of the Southern Conference Educatonal Fund. And now, our moderator for tonight—Mr. Ned Brooks.

Mr. Brooks: Good evening, and welcome once again to the Big Issue. Tonight — Segregation in Public Schools. It's one of the most controversial, one of the momentous issues of our times. After many years of debate, the final test —the showdown—appears now to be close at hand. Very soon the United States Supreme Court will hear arguments in five test cases—one of them from here in the District of Columbia; four others from various States. The Nation's highest court is being asked to decide whether the segregation laws in the various states and the District are valid under our Constitution.

Now, tonight our guests have opposite viewpoints. Gov. Herman Talmadge of Georgia is a well-known defender of the principle of segregation; he is the chairman of the Southern Governors Conference. On my right, Mr. Aubrey Williams believes that segregation should be outlawed. He is the publisher of the magazine **Southern Farm and Home**, and he is a farm operator. He is also the president of the Southern Conference Educational Fund; and under President Roosevelt he served as the director of the National Youth Administration.

A regular feature of the Big Issue are citizens' panels; some of them are here to ask questions—others to observe. I notice a couple of panel members I'd like to introduce right now before we get started with the questioning—Congressman E. L. Forrester of Georgia on the right; and Dr. Carl Hanson, associate superintendent of school here in Washington on the left. And in the back row, Mr. Eugene Cook, Attorney General of Georgia.

Tonight, leading the citizens' panel is the well-known editor and publisher, Mr. Lawrence Spivak. So, now that you have met our principals let's get under way with the first question by Mr. Spivak.

Mr. Spivak: Now, Mr. Williams, the first question is to you. Recently when the question of integrating Negro stewards in the Navy came up, Secretary of

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'Segregation Begins with Child In School'

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the Navy Anderson, had this to say, and I quote it: "I want to do it in a way that will not disrupt those involved. You can't eliminate customs and habits of people by executive order." Now, doesn't that apply in the case of segregation in the schools of the South?

Mr. Williams: Well, Mr. Spivak, I think the time has passed when it is possible to effect a change of this kind through a long tedious process of evolution—that's indicated by what you have said. I think that the situation now is such that only by a decisive and clear-cut pronouncement by the court can this situation be adequately met.

Spivak: Well, haven't we found though that even in a democracy it is difficult and sometimes impossible to force a law that is contrary to the general will of any community?

Williams: I don't think that you can quite simplify it to that extent. I think laws grow out of institutions that are established. **I think the institution of segregation begins with the child in school, when the child develops certain habits and thoughts by being denied the opportunity to co-mingle with children of other races. Therefore, you produce a condition that perpetuates the institution —that perpetuates the custom—and only by a clear-cut pronouncement indicating that this is the law of the land are we ever going to prevent that. And also by giving children an opportunity to co-mingle and to get rid of these prejudices by knowing each other.**

Spivak: But the question is, do you accomplish your purpose simply by passing a law?

Williams: Well, I think that is the only way you can; for example, take the matter of eating in the Pullman cars—eating in the diners. That was declared unconstitutional; and now you go into a diner in almost any part of the South, nothing is thought of it—it is simply accepted.

Spivak: Governor Talmadge, what is your answer to those who say that race is not the proper basis for classifying school children—and that it is wrong to single children out for separate treatment in a democracy?

CLAIMS RIGHT OF STATES

Governor Talmadge: I say that to make a remark of that kind, they violate the Supreme Court of the United States' decisions for the last seventy-five years. It has been recognized and upheld by the Supreme Court of the United States by unanimous decision, when William Howard Taft was Chief Justice; Brandeis was a member of that Court; Justice Stone was a member of that Court; Justice Holmes was a member of that Court—by unanimous verdict, they held that the matter of segregation in the common schools was something for each respective State themselves to decide.

Spivak: Now, governor, does that mean that, if the Supreme Court now decides the other way, as far as you and other Southern States are concerned, that will end it?

Governor: Of course, the Court can change their minds any time they see fit, but for seventy-five years that has been the constant and continued and unalterable opinion of the Supreme Court of the United States. I don't think we have any justices on the Supreme Court of the United States today that have a better understanding or interpretation of the Constitution than did Justices Holmes, Brandeis, Stone, and William Howard Taft and other Justices of that era. The people of the Southern States, in my opinion, will not accept any decision of the Supreme Court that would strike down segregation. They would do whatever was necessary in order to maintain separate races in separate schools.

Spivak: Well, Governor, what you're saying then is the people of the Southern States support the Supreme Court when the Supreme Court is on their side, but against the Supreme Court when they vote the other way.

Governor: Not necessarily. I don't mean to say that the people would fail to comply with any decision of the Supreme Court of the United States; but, if they had to—and I hope they will not have to —they would resort to the extreme measure of abolishing the public school system itself, rather than comply with such an order of the Supreme Court.

Brooks: Governor, I see one of the members of our citizens panel has a question — Mr. Kenneth Turner, the Washington correspondent of the Atlanta Journal.

Mr. Turner: I'd like to direct my question to Mr. Williams. Mr. Williams, in the original Supreme Court decision of 1896 regarding the separate but equal facilities, the Court said, "Legislation is powerless to eradicate racial instincts or to abolish distinctions based upon physical differences, and the attempt to do so can only result in accentuating the difficulties of the present situation." Do you believe that an enforced co-mingling of the races will improve race relations not only in the South but elsewhere?

Mr. Williams: It seems I must have anticipated that question because, next to the fact that that decision did set up the separate but equal situation, the most remembered thing about the decision is the statement of Justice Harlan in the minority part of the decision, when he says here that the "destinies of the two races in this country are indissolubly linked together, and the interest of both require that the common government of all shall not permit the seeds of race hate to be planted under the sanction of law. What can more certainly arouse hate—what can more certainly create and perpetuate a feeling of distrust between these races than government enactments which in fact proceed on the ground that colored citizens are so inferior and degraded that they cannot be allowed to sit in public coaches occupied by white citizens." In other words, he said that, while there may be evils attendant upon co-mingling, that it is very clear that the evils that come from legislation which predicate the rights of people upon the basis of color are infinitely more dangerous to democracy.

Mr. Turner: In other words you reject—

Mr. Williams: I most certainly do—

Governor: I might say this, if you will permit me to make a statement that I think Mr. Williams answered his own question, when he said he was quoting from a minority opinion and not from a majority opinion. That is not the law that the Court themselves determined.

Brooks: We have another question from a member of the panel. Mr. Joseph Donahue, former commissioner of the District of Columbia.

Donahue: The question is directed to Governor Talmadge. Governor, is your objection to integration predicated upon any opinion that the Negro is inferior?

Governor: No, I think you have inferior people in all races—in white races, in colored races, in yellow races; then you have superior people in all races. My opinion is predicated upon the Constitution of the United States, that each State itself might determine what type of school system it will have, because nowhere in the Federal Constitution do you find anything relating to schools, nor to education nor to segregation. And if our Federal Courts are going to interfere with the operation of our school systems, then we are going to have a super colossal state—a police state, if you please—that regulates lives, the liberties, the actions and conduct of people in every sphere of life—I don't want that.

HOW ABOUT EQUALITY?

Spivak: May I interrupt for a minute

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'I Do Not Deny Past Discriminations'

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to say, that although the Constitution doesn't deal with schools, it does deal with equality and inequality; and I think one of the serious questions is this—whether the principle of separate but equal schools hasn't brought about certain inequalities in the past in the South.

Governor: Well, I don't think I could say that perhaps there were some colored schools in the South that are not as good as some white schools. By the same token, there are some colored schools that are better than some white schools. It has nothing to do with the equality of opportunity of the races. People have been classified in municipalities by sex—girls have been sent to one school, and boys have been sent to another; but we don't say that made one sex inferior to the other, and we don't say that the segregation of the races in common schools means that one race is inferior to the other. It means that the State, acting under their police power as the sovereign authority has determined that it is better for both races—white and colored—that they go to separate schools.

Brooks: Mr. Donahue.

Donahue: Governor, having expressed your adherence to the Constitution, if the Supreme Court of the United States—a Constitutional Court, should require gradual integration of public school facilities, what will Georgia do?

Governor: Georgia, no doubt, will abolish her public school system and subsidize the child rather than the political unit of government; and that would not be in violation of either the U.S. Supreme Court or the Constitution of the United States nor the Constitution of the State of Georga. I might state we would be relucant to take that course; but before they would submit to the integration of the races in the common school system, I believe that they would do so.

Brooks: Mr. Willams has one short question.

Williams: In Georgia, I mean in South Carolina, when the Court ruled that the Negro had to have opportunity to vote in the Democratic Primary, isn't it true that the Democratic Party in South Carolina attempted to abolish the Democratic Party and set up a special privileged party—and isn't it also true that the Court ordered them not to do so and prevented them from doing it? In other words, you say that you will abolish the schools. You have no right to abolish the schools. This is a part of the United States, and in the United States—

Governor: Mr. Williams, where is there any authority either in the federal Constitution or the Supreme Court decisions or the state Constitution requiring any state to maintain a public school system?

Williams: It is by common consent—

Governor: It certainly is not—we don't operate government by common consent—we run it according to the Constitution.

Williams: It is now generally held throughout the country—and certainly on this you couldn't say that I represent any minority—that among those things that are a part of American life is public schools, and it simply is unthinkable—

Governor: It is operated under the jurisdiction of the State government in accordance with the constitution and decisions of the state government themselves; and has been so operated for seventy-five years.

Williams: Yes, just like the jury system, governor. In the jury system, that's also operated locally, but it is a part of our national structure.

Brooks: Gentlemen, let's see if we can get another question from a member of the panel. Mr. Ashley Sellers, Washington attorney and former professor of public law at the University of Georgia.

CITES ACTION IN OTHER STATES

Sellers: Mr. Williams, there are now 17 states, I believe, that have laws compelling segregation in public schools. Long past the enactment of the Fourteenth Amendment, however, there were a number of other states that required segregation, including such states as Massachusetts, New York, Ohio, and a number of other Northern states. In none of those states was segregation stricken down by judicial decree in those states; instead challenge was made to the courts, and the courts refused to strike down the regulation, and it had to be ended by resort to the state legislatures. Why does that not indicate the pattern for solution of this problem?

Williams: Well, I think the court has it within its right to accept any problem which in its estimation requires adjudication in which the rights of any individual are being violated. **There's no relevancy in this problem to say that this or that or the other state has done this, that or the other. This is an individual thing. The individual rights of these citizens and their children are being violated; and wherever the individual rights of a child or any citizen are being violated, that child is within its rights to appeal to the highest court of the land.**

* * *

(There ensued a discussion of the constitutional issue at stake in which points similar to ones made earlier were elaborated on.)

Brooks: Gentlemen, we have another member of the panel that has been trying to get in a question here, Mr. S. Walter Shine, a Washington attorney, who has played a leading part in the legal fight against segregation in Washington.

Shine: Governor Talmadge, isn't it true that at the present time the state of Georgia is engaged in a tremendous effort and spending many millions of dollars in an attempt to equalize and improve the facilities available for Negro public school children, so that they shall be equal to those available to white children?

Governor: We are spending more than $200 million in the state of Georgia at the present time, building facilities for not only the colored race, but the white race as well, and making no distinction whatsoever between the type school buildings. We pay the teachers in the colored schools the same salaries that we do the white teachers for similar certificates, and they are treated equally for all purposes.

Shine: Well, of course, governor, the investment for public schools for Negro children is only about $22,000,000, although the investment for white children in the Georgia school system is in excess of $135 million; and yet there are only about twice as many white children as there are Negroes. Would you say that that is equal treatment?

Governor: We are spending a greater percentage of this $200 million on our building program now under construction in Georgia for the colored race than the white race, not withstanding the fact that they constitute only a third of our population.

Shine: Wouldn't that be a clear indication, governor, that the fact that you have to spend so much more money for the Negro school pupils indicates that for many years you have been unconstitutionally violating and discriminating against the Negro children?

Governor: I do not deny that there have been some discriminations in the past both against the colored students and the white students. Sometimes the colored building is better; sometimes the white building is better.

Brooks: Mr. Sellers, do you want to continue?

Sellers: Yes, I would like to ask Mr. Williams, assuming that by chance the Supreme Court of the United States should rule that segregation in public schools is unconstitutional, and assuming that there are no legal barriers to wiping out segregation, do you not still believe

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